

FEBRUARY 8, 2011

**CITY OF GUNNISON COUNCIL
REGULAR SESSION MEETING MINUTES**

7:00 P.M.

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Stu Ferguson with Councilors Miller, Harriman, and Houck present along with City Attorney Landwehr, City Manager Coleman, City Clerk Davidson, Parks & Recreation Director Ampietro, City Engineer Zerger, Community Development Director Westbay, Police Chief Robinson, Fire Marshal Spritzer, Events Manager Messner, WSC Liaison Cruz, several interested citizens and the press. A Council quorum was present.

FEBRUARY 8, 2011

PUBLIC HEARING

7:00 P.M.

Receive Public Input on Amending Title 15, Land Development Code of the City of Gunnison Municipal Code, Prohibiting the Use of Land Within the Boundaries of the City of Gunnison for the Retail Sale, Distribution, Cultivation and Dispensing of Medical Marijuana.

Mayor Ferguson opened the Public Hearing at 7:00 P.M. and stated the date is Tuesday, February 8, 2011, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado. In attendance is all members of City Council, the City Attorney, City Manager, City Clerk, Community Development Director, Police Chief several citizens and the press. The Mayor stated the reason for the Public Hearing is to receive public input on Amending Title 15, Land Development Code of the Gunnison Municipal Code, Prohibiting the Use of Land within the Boundaries of the City for the Retail Sale, Distribution, Cultivation and Dispensing of Medical Marijuana.

Mayor Ferguson called for proof of publication of the Public Hearing which the City Clerk provided. Mayor Ferguson then called for City Staff comments and recommendation.

Community Development Director Westbay stated this is a proposed change to the Land Development Code that will prohibit the land uses within the City in regard to Medical Marijuana Centers, infused product manufacture and optional premise cultivation center. The definition of these centers are included in the State Medical Marijuana Code. The Amendment addresses three provisions of the Code, the definition section that will include definitions from the State Statutes that are relevant to the prohibition, the second is an amendment to Table 15.70.010 – Schedule of Uses for Residential Zone Districts, which will denote that the uses denoted in the Medical Marijuana Code are prohibited in the City limits in residential districts, and the third provision is an amendment to Table 15.70.030: Schedule of Uses in Commercial/Industrial Zone Districts, and will denote the prohibition of those uses as stated by the State Statutes. The reason for this amendment to the Code is because of some conflicts in the State Statutes. The main conflict arises in the Section that authorizes local municipalities to enact moratoriums but those moratoriums will cease when the Colorado Department of Revenue enacts new rules and regulations for medical marijuana businesses. Because that language exists and the Colorado Department of Revenue held a Public Hearing in January of 2011, on those rules, we feel that the State is moving forward and the State may adopt those rules as early as March. So this is a fast-track ordinance from the Planning Commission to the City Council. The prohibition will remain in effect until another amendment to the LDC is proposed to address medical marijuana businesses and uses within the City limits and at this point in time it remains to be seen what happens in the ballot initiative in May, 2011, asking the question of whether these uses should be permitted in the City limits.

The City attorney had no additional comments to add. He stated Director Westbay had accurately laid out the reasons for this ordinance.

The Mayor then asked if any letters were received on the issue to be entered into the record. City Clerk Davidson stated that no letters or electronic communications were received concerning the Public Hearing. Mayor Ferguson then called for public comment and asked that anyone wishing to comment to please step up to the microphone and sign the sign-in sheet for the record.

Will Brown, a resident of Crested Butte, Colorado, came forward to comment. Mr. Brown stated that he heard the City Attorney inform Council that the State is adopting a rule making process. Mr. Brown presented a copy of those rules, a 99 page document. These make it one of the most regulated industries in the State. It has been compared to tobacco and alcohol regulations and these are a much higher regulated than either of those industries. On page three of House Bill 1284 states that no medical marijuana business will be allowed to open before July 1st of 2011. So the City has quite a bit of time once they are signed into effect on the legislative level. No business can open without local and state approval. He is speaking against the prohibition.

Crested Butte has had marijuana centers for eight months and there have been zero negative related issues with the businesses in Crested Butte. There has been a 4% sales tax contribution last quarter. Mr. Brown asked how the City Council can turn away the fastest growing and most regulated industry in the State. He asks that Council to note the present support against the prohibition ordinance and asks that Council take action in the public interest.

Mayor Ferguson stated that this isn't a time for debate but reminded Mr. Brown that if the City voters choose to allow medical marijuana business in May then this prohibition ordinance will go away and City regulations be put in place.

Community Development Director Westbay asked that the Staff report and the recommendation from the Planning & Zoning Commission be entered into the record.

Mayor Ferguson called for any further comment, and hearing none, closed the Public Hearing at 7:09 P.M.

Council then began the Regular Session meeting.

Consideration of Minutes:

Regular Session Meeting Minutes of January 11, 2011. City Clerk Davidson explained she had made a correction to the opening paragraph in the minutes to reflect the attendees at the meeting.

Councilor Harriman moved and Councilor Houck seconded the motion to approve the Regular Session Meeting minutes of January 11, 2011, as submitted.

Roll call vote, yes: Miller, Harriman, Ferguson, Houck. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Nesbitt.

Pre-Scheduled Citizens: None.

Unfinished Business: The Mayor added a Jorgensen Ice Rink update to the agenda at this point. City Manager Coleman stated that participants at hockey games over the weekend were exposed to Carbon Monoxide (CO). Many people visited hospitals, not only in Gunnison, but in other areas as well. Two players from the Eagles Hockey Team were transported by air to Denver for more critical treatment. City Engineer Zerger has been instrumental in assessing the air exchange system at the rink. The primary makeup air louver motor was not operational. The fresh air intake can be manually opened. Tests on the resurfacing machine and CO monitoring tests with the louver open and closed have been conducted. The air exchange system is functional but the motor was non-functional. Everything else was working. The two air systems at the rink are no longer intermingling. The locker rooms are now independent from the rink area. The Zamboni is the other piece that is being evaluated. In normal working mode, the machine has high CO emissions and lower CO2 levels. Events Manager Messner informed Council the Zamboni parts are being tested. The machine was serviced on Thursday at the Fleet Shop and a fuel line fitting leak was repaired on Friday. City Manager Coleman stated we had a "perfect storm" of problems that created an unhealthy environment. The louver motor will be replaced, it is currently open full time. The Zamboni is being repaired for the emission issues. The rink has been open 3 years. We are unsure when the motor on the louver failed. Under normal operations, the Zamboni should have zero CO emissions. At the City Staff level, future safety of all rink users is paramount. CO levels will be monitored. The new Building Code does not require CO monitors in commercial/public buildings. This will not suffice and we have installed numerous battery powered CO monitors and will be installing hard-wire CO monitors. We have had numerous media contacts and Fire Marshal Dennis Spritzer has been the primary public information contact. Fire Marshal Spritzer informed Council that he spoke with all the major networks including the Reuters agency. Today it has been mainly local media contacts for follow-up information. He will continue to keep the locals in the loop. City Manager Coleman stated following corrective action for a safe future, the major priority is the well being of people impacted by the incident. The Emergency Services response was incredible as was the local hospital care. The rinks are closed at this time. Manager Messner stated that once precautions are in-place and the problems corrected, then hockey games may be moved to the outdoor then to the indoor rink. Parks & Recreation Director Ampietro informed Council that the back-up Zamboni that was budgeted in the 2011 Budget has been ordered. It is a propane machine and has less CO emissions. The machine is undergoing maintenance and any repairs

needed are being done prior to it being shipped here. It should be here next week. The machine will undergo an emissions check prior to initial use. City Manager Coleman stated that City Engineer Terry Zerger is looking at the installation of redundant systems to ensure the air intake system is working. This could be an automatic air intake system that opens when the Zamboni is on the ice. However, any mechanical system is possible to fail at any time. Zamboni does make electric resurfacing machines. Director Ampietro stated a new electric machine is approximately \$115,000. It has zero emissions, is battery operated and we could possibly trade in our existing machine for around \$30,000. The battery packs have a 7 to 8 year lifespan. We probably couldn't get one for this year as there is a backlog of orders. The City Manager stated that this option will come before Council during budget discussions. The City has contacted Travelers Insurance and they are looking into the incident. Finance Director Hanson has contacted the hospitals and claims will go to us then to Travelers Insurance. That's the position we want to take. City Manager Coleman stated we won't open the facility until it's a safe facility. We need to open with a high degree of confidence – from the Council, Staff, and the public. Council consensus was that when Staff has a high level of confidence to open the facility. It is our responsibility to have safe facilities.

Councilor Nesbitt asked about warranties. City Engineer Zerger stated there are no warranties on the equipment. The City is looking at installing an alarm that would sound if the louver is not operating. They are also looking at a strobe light on the system. A full alarm will be hardwired in and the battery operated monitors will be a redundant system. Council Harriman asked about emissions testing. The City Manager stated that Staff is reviewing procedures to increase the testing on a regular basis. Mayor Ferguson stated the City should look at obtaining an electric Zamboni. It would be safer and better for the environment. The City Manager stated Staff will undertake a cost analysis on the purchase of different units. He informed Council he is working on a Letter to the Editor that the Times will publish. It was suggested he also look at placing the letter in other papers in towns where other players reside. Council thanked everyone for the update.

New Business:

Action on Bid for Lease/Purchase of Tandem Dump Truck. Finance Director Hanson stated that only two bids were received because of the smaller financed amount and the short term of the financing. Staff recommendation is to accept the Bank of the West bid.

Councilor Houck moved and Councilor Nesbitt seconded the motion to accept the lease purchase bid from Bank of the West at a 3.11% interest rate with a total financing cost of \$4,059.54, making the total payment \$82,377.43.

Roll call vote, yes: Harriman, Ferguson, Houck, Nesbitt, Miller. So carried.

Roll call vote, no: None.

2011 Contracts for Service

- Safe Ride - \$3,980
- Arts Council - \$20,418
- Spay/Neuter Services - \$995
- Literacy Program - \$1,450
- Pioneer Museum - \$4,975
- Jubilee House - \$1,130
- Six Points - \$3,084
- Gunnison Nordic Club - \$995
- Chamber of Commerce - \$14,925
- WSC-Recruiting Services - \$9,000

Councilor Nesbitt moved and Councilor Houck seconded the motion to approve the listed 2011 Contracts for Service in the total amount of \$60,952.00, the Mayor be authorized to sign said Contracts and for copies to be made available to the public.

Roll call vote, yes: Ferguson, Houck, Nesbitt, Miller, Harriman. So carried.

Roll call vote, no: None.

2011 Continuing Challenge Grants

- Chamber Holidays - \$2,000
- Cattlemen's Days - \$7,462
- Car Show - \$500
- Kiwanis Fishing Tournament - \$995
- Rotary Fireworks - \$5,970
- Colorado Adventure Sports Festival - \$1,990

Councilor Nesbitt moved and Councilor Houck seconded the motion to approve the listed 2011 Continuing Challenge Grants in the total amount of \$18,917.00, authorize the Mayor to sign said Continuing Challenge Grants, and for copies to be made available to the public.

Roll call vote, yes: Houck, Nesbitt, Miller, Harriman, Ferguson. So carried.

Roll call vote, no: None.

Letter Opposing Possible Mesa State Name Change. City Manager Coleman explained the letter in the packet will be sent to the legislative list provided by Dr. Jay Helman. Councilor Nesbitt asked that Senator Gail Schwartz and Representative Roger Wilson be added to the list. A couple of minor wording changes were made to the letter. Consensus was for Council to each sign the letters. They will be available in the City Clerk's office for signing tomorrow.

Ordinances and Resolutions:

Ordinance No. 1, Series 2011; Re: Amending Gunnison Municipal Code Relating to Municipal Court, General Offenses and Animal Offenses; 2nd Reading. Councilor Houck introduced Ordinance No. 1, Series 2011, and it was read by title only by the City Attorney.

Councilor Houck moved and Councilor Nesbitt seconded the motion that Ordinance No. 1, Series 2011, **AN ORDINANCE AMENDING CHAPTER 4.10 OF THE GUNNISON MUNICIPAL CODE RELATING TO MUNICIPAL COURT, AMENDING CHAPTER 5.10 OF THE GUNNISON MUNICIPAL CODE RELATING TO GENERAL OFFENSES, AND AMENDING CHAPTER 5.40 OF THE GUNNISON MUNICIPAL CODE RELATING TO ANIMALS**, be introduced, read, passed, and adopted on second and final reading this 8th day of February, 2011.

Roll call vote, yes: Nesbitt, Miller, Harriman, Ferguson, Houck. So carried.

Roll call vote, no: None.

Ordinance No. 2, Series 2011; Re: Amending Gunnison Municipal Code Relating to Prohibiting the Use of Land Within the City for the Retail Sale, Distribution, Cultivation and Dispensing of Medical Marijuana; 1st Reading. Councilor Houck introduced Ordinance No. 2, Series 2011, and it was read by title only by the City Attorney.

Councilor Houck moved and Councilor Nesbitt seconded the motion that Ordinance No. 2, Series 2011, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 15, THE LAND DEVELOPMENT CODE, OF THE CITY OF GUNNISON MUNICIPAL CODE PROHIBITING THE USE OF LAND WITHIN THE BOUNDARIES OF THE CITY OF GUNNISON FOR THE RETAIL SALE, DISTRIBUTION, CULTIVATION, AND DISPENSING OF MEDICAL MARIJUANA**, be introduced, read, passed and ordered published on first reading this 8th day of February, 2011.

Roll call vote, yes: Miller, Harriman, Ferguson, Houck, Nesbitt. So carried.

Roll call vote, no: None.

City Attorney: Rod Landwehr. Nothing to report.

City Manager: Ken Coleman. City Manager Coleman reported on the following: he and the Finance Director are pursuing the unpaid RHPI Health Insurance claims and they met with the Gunnison Valley Hospital today; we will be receiving an invoice from GVH for payment of the unpaid negotiated claims; the third party claims administrator, NGS, should start working on the other claims to get them resolved; the 2010 year-end sales tax reports are out and we ended in a more positive position than anticipated; there are a couple of job vacancies – the HR Tech position and Aquatics Director position; and the new Police Officer and Electric Lineman have started with the City.

Acting City Manager: Community Development Director Steve Westbay reported on the following: he attended last week's Mayors'/Managers' meeting that was hosted by the County. The participants discussed the following: the County's 1041 regulations; the ski area's numbers are up although real estate is lagging and will continue to lag for the next 5 years; and WSC discussed the potential name change of Mesa State College. Mayor Ferguson, who also attended the meeting, added that Somerset will be getting a new library facility and the CFGV will be hosting a fundraising workshop for non-profit organizations.

City Clerk: Gail Davidson. Nothing to report.

WSC Liaison: Jesse Cruz reported he would be wrestling tomorrow against Nebraska Kearney here at WSC. There is a music recital on Thursday at Quigley Hall and an ice climbing competition and instruction on Saturday on campus. There will also be a cross country ski trip this weekend and he will be gone next Tuesday for wrestling.

Non-Scheduled Citizens: None.

City Council Discussion, Meeting Reports, Items for Work Session:

Councilor Miller: had nothing to report.

Councilor Harriman: informed Council she attended the Housing Authority Board meeting last week and then they met with the County Commissioners today. Their goal is to meet with each governmental entity in the County. They may be placing a possible economic development grant to HUD. ORE will be making the grant application and the goal is to create jobs via a business incubator. There are several board vacancies on the Housing Authority. The Authority owns some property in West Gunnison and they are looking into selling the property to Habitat for Humanity. City Manager Coleman stated that perhaps the City could assist with creating a higher density PUD development on the property. Councilor Harriman reported there have been improvements to the seniors Mountain View Apartments with the addition of a new electronic key entry system that is easier to use by the seniors.

Mayor Ferguson: reported he attended the Tourism Association meeting this morning. They are working on a self-evaluation of their services and have had good candid conversations. He shared the City's new "Base Camp to the Rocky Mountains" concept and they were complimentary.

Mayor Pro Tem Houck: stated he will be attending the RTA meeting this Friday in Crested Butte. He complimented the Gunnison Nordic Club for the great job they have doing with the limited snow.

Councilor Nesbitt: passed out information sheets to Council. The first was the "talking points" regarding the potential Mesa State name change. The Water Congress information includes a very telling aerial photo that shows where the snow/water is located. 70% of the State's population is on the east side of the divide but 70% of the water is on the west side. So far this season, there have been no dust-on-snow events. At the water meeting they also discussed water in the Arkansas River Basin and water storage capability in Blue Mesa. The document on water in the Colorado River Basin is "light" on land use issues.

Executive Session: For the purpose of receiving legal advice and information from the City's Attorney regarding specific legal questions on water issues; pursuant to C.R.S. 24-6-402(4)(b). The Executive Session is not open to the public and action may not be taken.

Councilor Houck moved and Councilor Harriman seconded the motion to go into Executive Session, the purpose of which is for a discussion as outlined under C.R.S. Section 24-6-402(4)(b), for the purpose of receiving legal advice and information from the City's Attorney regarding specific legal questions on water issues. The Executive Session is not open to the public and action may not be taken. Council went into Executive Session at 8:32 P.M.

Council returned to Regular Session at 8:42 P.M. Mayor Ferguson stated the time is now 8:42 P.M. and the Executive Session has been concluded. The participants in the Executive Session were Mayor Stu Ferguson, Mayor Pro Tem Jonathan Houck, Councilor Rick Miller, Councilor Ellen Harriman, Councilor Bill Nesbitt, City Attorney Rod Landwehr, City Manager Ken Coleman, City Clerk Gail Davidson. Mayor Ferguson asked that for the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session or that any improper action occurred during the Executive Session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. There were no comments or statements.

Adjournment: Mayor Ferguson called for any further discussion, and hearing none, adjourned the meeting at 8:45 P.M.

Mayor

City Clerk